

CHAPTER 75-03-10
CHILD CARE CENTER EARLY CHILDHOOD SERVICES

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75-03-10-01. Purpose. Repealed effective January 1, 1999.

75-03-10-02. Authority and objective. Repealed effective January 1, 1999.

75-03-10-03. Definitions. As used in this chapter:

1. "Attendance" means the total number of children present at any one time at the facility.
2. "Caregiver" means any individual whose prime responsibility is the provision of direct care, supervision, and guidance to children in a child care center under the guidance and supervision of the child care center operator.
3. "Child care center" means an early childhood facility where early childhood services are provided to nineteen or more children.
4. "Child care center director" means any individual responsible for overseeing and planning the day-to-day child care center activities.
5. "Child care center operator" means the individual who has the legal responsibility and the administrative authority for the operation of a child care center. The child care center operator is the applicant for license or the licensee under this chapter.
6. "Child care center supervisor" means any individual with the responsibility for organizing and supervising daily program activities.
7. "Department" means the North Dakota department of human services.
8. "Emergency designee" means an individual designated by the child care center operator to be a backup caregiver for emergency assistance or to provide substitute care.
9. "Parent" means an individual bearing the legal relationship of father or mother to a child enrolled in a child care center, including an individual who legally stands in place of a parent, including a legal guardian or custodian.
10. "Staff member" means operator, substitute staff, volunteer, caregiver, or other individual whose prime responsibility is the provision of direct care, supervision, and guidance to children in the child care center.
11. "Substitute staff" means paid or unpaid staff who work less than thirty-two hours per month.
12. "Volunteer" means an individual who visits or provides an unpaid service or visit, including a fireperson for fire safety week, McGruff, or Santa Claus person.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

75-03-10-04. Effect of licensing and display of license.

1. The issuance of a license to operate a child care center is evidence of compliance with the standards contained in this chapter and North Dakota Century Code chapter 50-11.1 at the time of licensure.
2. The current license must be displayed in the premises to which it applies.
3. The license must specify the maximum number of children who may be cared for by the center. The center may at no time admit a greater number of children.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04

75-03-10-05. Denial or revocation of license.

1. A license may be denied or revoked under the terms and conditions of North Dakota Century Code sections 50-11.1-04, 50-11.1-09, and 50-11.1-10.
2. If an action to revoke a license is appealed, the licenseholder may continue the operation of the child care center pending the final administrative determination or until the license expires, whichever occurs first; provided, however, that this subsection does not limit the actions the department may take pursuant to North Dakota Century Code section 50-11.1-12.
3. The department may revoke a license to operate a child care center without first issuing a correction order.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-09

75-03-10-06. Provisional license.

1. The director of a regional human service center, in the director's discretion, or the director's designee, may issue a provisional license for the operation of a newly opened child care center or for a previously licensed child care center, although the child care center fails to comply with all applicable standards and rules of the department.

2. A provisional license must:
 - a. Prominently state that the child care center has failed to comply with all applicable standards and rules of the department;
 - b. State that the items of noncompliance are set forth on a document available upon request made to the child care center's operator;
 - c. Expire at a set date, not to exceed six months from the date of issuance; and
 - d. Be exchanged for an unrestricted license, which bears the same date of issuance as the provisional license, upon demonstrating compliance, satisfactory to the department, with all applicable standards and rules.
3. A provisional license may be issued only to an applicant who has waived, in writing:
 - a. The right to a written statement of charges as to the reasons for the denial of an unrestricted license; and
 - b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
4. Any provisional license issued must be accompanied by a written statement of violations signed by the regional director of the human service center or the regional director's designee and acknowledged in writing by the operator.
5. Subject to the exceptions contained in this section, a provisional license entitles the holder to all rights and privileges afforded the holder of an unrestricted license.
6. The department may not issue a provisional license if the facility is not in compliance with section 75-03-10-17 or 75-03-10-18.
7. The operator shall prominently display the provisional license.

8. The operator shall provide parents notice that the facility is operating on aprovisional license and the basis for the provisional license.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1,1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-07, 50-11.1-07.2, 50-11.1-08

75-03-10-07. Application for and nontransferability of child care center license. An application for a license must be submitted to the county agency in the county in which the facility is located.

1. Application must be made in the form and manner prescribed by the department.
2. The license is nontransferable and is valid only on the premises that are indicated on the license.
3. A new application for a license must be filed by a licensed center upon change of operator or location.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1,1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04

75-03-10-08. Duties of child care center operator.

1. The operator of a child care center is responsible to the department for compliance with the requirements set forth in the standards and North Dakota Century Code chapter 50-11.1. In meeting this responsibility, the operator shall ensure:
 - a. Establishment of the child care program;
 - b. An application is made for a license for each child care center operated;
 - c. Creation of an outline of a written plan and policies for the operation of each child care center;
 - d. Notification is provided to the county agency of any major changes in the operation or in the ownership or governing body of the child care center and of any staff or caregiver changes;
 - e. Liability insurance for bodily injury and property damage for the child care center is carried;

- f. Formulation of written policies and procedures relating to:
 - (1) Hiring practices and personnel policies for staff;
 - (2) Methods for obtaining references and employment histories of staff;
 - (3) Methods of conducting staff performance evaluations;
 - (4) Children's activities, care, and enrollment; and
 - (5) The responsibilities and rights of staff and parents;
- g. Maintenance of required enrollment, attendance, health, financial, and related records;
- h. Responsibility for all child care center staff, volunteers, or others who provide services in the facility and for notifying the department and county agency of any change of directors;
- i. Maintenance of necessary information to verify staff qualifications and to ensure safe care for the children in the child care center;
- j. Designation of a qualified director;
- k. That parents of enrolled children and other interested parties are informed of the goals, policies, procedures, and content of the child care center's program, including:
 - (1) An explanation of how accidents and illnesses may be dealt with; and
 - (2) Methods of discipline and developmentally appropriate guidance techniques to be used;
- l. That parents of enrolled children:
 - (1) Are advised of the center's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director; and
 - (2) Receive written notice of the effective date, duration, scope, and impact of any significant changes in the center's services;
- m. That the center is sufficiently staffed at all times to meet the child and staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;

- n. That the child care center has sufficient qualified caregivers available to substitute for regularly assigned staff who are sick, on leave, or who are otherwise unable to be on duty;
 - o. That written agreements with the parents of each child specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
 - p. That written policies are established which provide for emergency medical care, the care of children with special physical, emotional, or mental needs, if children with these needs are in care, and the treatment of illness and accident;
 - q. That written policies are established concerning the care and safeguarding of personal belongings brought to the child care center by children or others on their behalf;
 - r. Parents are provided unlimited access and opportunities to observe their children at any time while in care, and are provided regular opportunities to meet with caregivers before and during enrollment to discuss their children's needs;
 - s. Parents are provided, upon request, any progress reports on their children;
 - t. The reporting of any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1 and development of a written policy for staff to handle this reporting;
 - u. That there is, at all times when children are receiving care, a staff member on duty who meets current certification requirements in basic cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs and in a first-aid program approved by the department. Substitute staff are exempt from this requirement;
 - v. The development of and compliance with a procedure for accountability when a child fails to arrive for the program; and
 - w. Carecheck information is made available to parents.
- 2. If the operator of the child care center is also the director, the operator shall also meet the qualifications of the director set forth in section 75-03-10-11.1.
 - 3. The operator of a facility shall report within twenty-four hours to the county director or the county director's designee a death or serious

accident or illness requiring hospitalization of a child while in the care of the facility or attributable to care received in the facility.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-09. Staffing and group size requirements.

1. The number of staff members and their use shall reflect program requirements, individual differences in the needs of the children enrolled, and shall permit flexible groupings, if necessary. Service personnel engaged in housekeeping and food preparation may not be counted in the child and staff ratio for periods of time when so engaged. Children with special conditions requiring more than usual care and supervision shall have adequate care and supervision provided to them without adversely affecting care provided to the remaining children in the child care center.
2. The operator of a child care center shall ensure that the center is sufficiently staffed at all times to meet the staffing requirements for children in attendance, and that no more children than the licensed capacity are served at one time. The minimum ratio of caregivers or program staff to children in child care centers and maximum groups size of children must be:
 - a. If all children in care are children less than twenty-four months of age, one staff member may care for four children, a ratio of .25 in decimal form, with a maximum group size of eight children;
 - b. If all children in care are children twenty-four months of age to thirty-six months of age, one staff member may care for five children, a ratio of .20 in decimal form, with a maximum group size of ten children;
 - c. If all children in care are children three years of age to four years of age, one staff member may care for seven children, a ratio of .142 in decimal form, with a maximum group size of fourteen children;
 - d. If all children in care are children four years of age to five years of age, one staff member may care for ten children, a ratio of .10 in decimal form, with a maximum group size of twenty children;
 - e. If all children in care are children five years of age to six years of age, one staff member may care for twelve children, a ratio of .08 in decimal form, with a maximum group size of twenty-four children; and

- f. If all children in care are children six to twelve years of age, one staff member may care for eighteen children, a ratio of .05 in decimal form, with a maximum group size of thirty-six children.

The provisions in this subsection relating to maximum group size shall not apply to child care center operators licensed prior to January 1, 1999, if such child care center operators are otherwise qualified to operate a child care center. Any child care center operator who discontinues operation of the child care center under a valid license or who fails to renew such license upon expiration thereof shall not thereafter be exempt from the requirements relating to maximum group size.

3. If a child has a disabling condition which requires more than usual care, the child's developmental age level must be used in determining the number of children for which care may be provided.
4. When there are mixed age groups in the same room, the group size must be consistent with the age of the majority of the children when no infants, age zero to twenty-four months, or toddlers, age twenty-four months to thirty-six months, are in the mixed age group. When infants or toddlers are in the mixed age group, the group size for infants and toddlers must be maintained.
5. The number of children in each age category is divided by the corresponding ratio number and carried to the nearest hundredth. To determine the number of caregivers necessary at any given time, numbers of caregivers for all age categories are added, and any fractional caregiver count is then rounded to the next highest whole number whenever the fractional caregiver count amounts to thirty-five hundredths or more. If lower than thirty-five hundredths, the fractional amount is dropped.
6. Children using the licensed facility for a McGruff safe house, a block house, or a certified safe house program during an emergency may not be counted under this section.

History: Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-02, 50-11.1-02.1

75-03-10-10. Minimum qualifications of child care center supervisor. A supervisor shall:

1. Have had training and demonstrated ability in working with children;

2. Meet at least one of the following qualifications:
 - a. An associate degree in the field of early childhood development;
 - b. Certification as a child development associate or similar status where such a local, state, or federal certification program exists;
 - c. Certification from a Montessori teacher training program; or
 - d. A high school diploma or high school equivalency with at least one year of experience in a child care or similar setting.
3. Possess the capacity and willingness to increase skills and competence through experience, training, and supervision;
4. Be an adult of good mental and physical health, capable of mature judgment, and shall possess knowledge and experience in interpersonal relationships;
5. Have current certification in basic cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department; and
6. Certify attendance at a minimum of thirteen hours of county agency approved training related to child care annually.

History: Effective December 1, 1981; amended effective January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-11. Duties of child care center director. The child care center director shall, coextensive with the child care center operator:

1. Be responsible for program planning, supervision, and activity;
2. Be responsible for maintenance of required enrollment, attendance, health, financial, and related records;
3. Be responsible for the screening, scheduling, supervision, and conduct of staff members;
4. Ensure that a child care center has a director or a designated acting director who must be present at the center at least sixty percent of the time that the center is open;

5. Ensure that the individual designated as an acting director for an ongoing period of less than thirty days meets the qualifications of a child care supervisor; and
6. Ensure that the individual designated as an acting director for an ongoing period of more than thirty days meets the qualifications of a child care center director.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-11.1. Minimum qualifications of child care center director.

1. A child care center director must be an adult of good mental and physical health, capable of mature judgment, and shall possess knowledge and experience in management and interpersonal relationships.
2. A child care center director shall meet at least one of the following qualifications, in addition to those set out in subsection 1:
 - a. A bachelor's degree in the field of early childhood education with eight or more weeks of supervised student teaching experience in a child care center or similar setting;
 - b. A bachelor's degree with at least twenty-four semester hours or thirty quarter hours in child development, child psychology, or fields directly related thereto, with at least six months of experience in a child care center or similar setting;
 - c. An associate degree in the field of early childhood development with at least six months of experience in a child care center or similar setting;
 - d. A teaching certificate in elementary education with at least six months of experience in a child care center and at least twelve semester hours or fifteen quarter hours in child development, child psychology, early childhood education, or related fields;
 - e. Certification as a child development associate or similar status where such a local, state, or federal certification program exists, with at least one year of experience in a child care center or similar setting;
 - f. A bachelor's degree with at least twelve semester hours or fifteen quarter hours in child development, child psychology, or fields

directly related thereto, with at least one year of experience in a child care center or similar setting; or

9. Certification for a Montessori teacher training program with at least one year of experience in a Montessori school, child care center, or similar setting and at least twelve semester hours or fifteen quarter hours in child development, child psychology, early childhood education, or related fields.
3. The director shall certify attendance at a minimum of thirteen hours of county-approved training related to child care annually.

History: Effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-12. Minimum qualifications for all caregivers.

1. Caregivers shall:
 - a. Be at least fourteen years of age, provided that each such individual under age sixteen has written parental consent for such employment, and the employment arrangements comply with North Dakota Century Code chapter 34-07;
 - b. Be mentally, physically, and emotionally able to provide adequate care for the children under supervision;
 - c. Certify annual attendance at county-approved training related to child care;
 - (1) If working thirty to forty hours per week, certify thirteen hours of county-approved training annually.
 - (2) If working twenty to thirty hours per week, certify eleven hours of county-approved training annually.
 - (3) If working ten to twenty hours per week, certify nine hours of county-approved training annually.
 - (4) If working less than ten hours per week, certify seven hours of county-approved training annually;
 - d. Not use or be under the influence of any alcohol or judgment-altering drugs while children are in care; and
 - e. At no time place a child in an environment that would be harmful or dangerous to a child's physical or emotional health.

2. Newly hired caregivers shall have a two-day, onsite orientation to the child care program during the first week of employment. The orientation must address the following:
 - a. Emergency health, fire, and safety procedures at the center;
 - b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children;
 - c. Any special health or nutrition problems of the children assigned to the caregiver;
 - d. Any special needs of the children assigned to the caregiver;
 - e. The planned program of activities at the child care center;
 - f. Rules and policies of the child care center; and
 - g. Child abuse and neglect laws.
3. Caregivers under the age of eighteen and all children in care shall have adult supervision in the child care center at all times.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-13. Minimum health requirements for all caregivers.

1. Each operator or caregiver shall complete a health self-certification form certifying that the operator or caregiver does not have health problems that would interfere with the person's functioning as a caregiver or that would be detrimental to the health of the children or other staff. If the operator adds or replaces a caregiver after the licensure process is complete, the operator shall submit a self-certification form completed by the new caregiver to the county agency within five working days of the caregiver's first workday.
2. Each operator or caregiver shall furnish documentation of a negative Mantoux tuberculosis test prior to initial licensure or employment, and every two years thereafter. If the operator adds or replaces a caregiver after the licensure process is complete, the caregiver shall furnish documentation of a negative Mantoux tuberculosis test before the first day of employment. Substitute staff are exempt from this requirement. A child care center operator who uses an untested emergency designee may not be found in violation of this provision.

3. If the physical or mental health of an operator or caregiver appears questionable, the department may require the individual to be evaluated by appropriate professionals, with the results provided to the department. The department is not responsible for the costs of any required evaluation.
4. While children are in care, staff members may not use or be under the influence of any alcohol or judgment-altering drugs.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-14. Minimum qualifications for volunteers. If providing child care, volunteers shall meet qualifications of child care caregivers and receive orientation as needed for all assigned tasks.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-15. Minimum standards for provision of transportation.

1. The operator shall establish a written policy governing the transportation of children to and from the child care center, if the child care center provides transportation. This policy must specify who is to provide transportation and how parental permission is to be obtained for activities which occur outside the child care center. If the child care center provides transportation, the operator shall inform the parents of any insurance coverage on the vehicles. Any vehicle used for transporting children must be in safe operating condition and in compliance with state and local laws.
2. When transportation is provided by a child care center, children must be protected by adequate staff supervision, safety precautions, and liability and medical insurance.
 - a. Child and staff ratios must be maintained to assure the safety of children while being transported. The department requires one busdriver per twenty children and one additional individual for twenty-one children or more.
 - b. A child may not be left unattended in a vehicle.

3. Children must be instructed in safe transportation conduct as appropriate to their age and stage of development.
4. The driver shall comply with all relevant state and local laws.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-16. Minimum emergency evacuation and disaster plan.

1. Each child care center shall have an approved and posted emergency disaster plan for the safety of the children in care. Written disaster plans must be developed in cooperation with the authorities.
2. Fire evacuation drills must be performed in accordance with the local fire department's guidelines.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-02, 50-11.1-02.1

75-03-10-17. Fire inspections.

1. Annual fire inspections must be completed by local or state fire authorities. The operator shall have corrected any code violations noted by the fire inspector and shall file reports of the inspections with the county licensing agency.
2. The child care center must be equipped with sufficient smoke detectors and fire extinguishers, as recommended by the local fire department.
3. The child care center shall provide:
 - a. The local fire inspector's written statement of compliance with the local fire code, if there is one;
 - b. The local fire inspector's written statement that the child care center has been inspected and that the inspector is satisfied that the child care center meets minimum fire and safety standards; or

- c. A written statement from an appropriate fire official that the child care center meets minimum fire and safety standards adopted by the state fire marshal.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07

75-03-10-18. Minimum sanitation and safety requirements.

1. In centers where meals are prepared, the state department of health shall conduct an annual inspection. If only snacks or occasional cooking projects are prepared, a state department of health inspection is not required.
2. Child care center bathroom lavatories, toilets, tables, chairs, and floors must be cleaned daily. Cots and mats must be individually labeled, and cleaned and sanitized at least weekly. If different children use the same cots or mats, they must be thoroughly cleaned and sanitized between each use. Separate storage must be provided for personal blankets or coverings.
3. The child care center's building, grounds, and equipment must be located, cleaned, and maintained to protect the health and safety of children. Routine maintenance and cleaning procedures must be established to protect the health of the children and the caregivers.
4. Caregivers shall wash their hands before preparing or serving meals, after nose wiping, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and paper towels must be available at each lavatory.
5. Indoor and outdoor equipment, toys, and supplies must be safe, strong, nontoxic, and in good repair. All toys must be easily cleanable and must be cleaned and sanitized on a routine basis.
6. The child care center ground areas must be free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
7. Garbage must be kept away from areas used by children and kept in containers with tight lids, made of noncombustible materials. Open burning is not permitted.
8. Exterior play areas in close proximity to busy streets and other unsafe areas must be contained, fenced, or have natural barriers to restrict children from those unsafe areas.

9. Potential hazards, including household cleaning chemicals, uninsulated wires, medicines, poisonous plants, and open stairways may not be accessible to young children.
10. Indoor floors and steps may not be slippery or have splinters. Steps and walkways must be kept free from accumulations of water, ice, snow, or debris.
11. Elevated areas, such as stairs or porches, must have railings and approved safety gates where necessary to prevent falls.
12. Child care centers shall take steps to keep the facility free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the facility.
13. Exit doorways and pathways may not be blocked.
14. If the center is providing care to children in wheelchairs, the center shall ensure doors have sufficient width and construction to accommodate any children in wheelchairs who are receiving care at the center.
15. Light bulbs in areas used by children must be properly shielded or shatterproof.
16. Combustible materials must be kept away from light bulbs and other heat sources.
17. There must be adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. During the heating season when the child care center is occupied by children, the room temperature may not be less than sixty-eight degrees Fahrenheit [20 degrees Celsius] and not more than seventy-four degrees Fahrenheit [23.33 degrees Celsius] measured three feet [91.44 centimeters] above the floor. All heating devices must be approved by the local fire authorities.
18. All child care center buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chewed condition in any area where children may be present, must have these surfaces repainted or must submit evidence that the surfaces do not contain hazardous levels of lead-bearing substances. For purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the state department of health.

19. Personal items including combs, pacifiers, and toothbrushes must be individually identified and stored in a sanitary manner.
20. All pets present in the child care center must be properly immunized, restricted, and maintained. Nondomestic animals such as skunks, opossum, or raccoon, whether or not regarded as pets, may not be present in the child care center. Pets may not be allowed in the kitchen or eating area during meal preparation or meals.
21. Wading pools used by the child care center must be strictly supervised and must be emptied and cleaned daily.
22. All swimming pools must be approved by the local health unit.
23. Smoking is not permitted in any child care center at any time during which a child who receives early childhood services from that child care center is present and receiving services.
24. Diapering:
 - a. There must be a designated cleanable diapering area in the child care center if children requiring diapering are in care. A handwashing lavatory must be immediately accessible to the diapering area.
 - b. Cloth diapers may not be used in a child care center.
 - c. Diapers must be changed promptly when needed and in a sanitary manner. Infants must be changed on a cleanable surface which must be thoroughly cleaned with detergent and sanitized after each diapering.
 - d. Soiled or wet disposable diapers must be stored in a sanitary, airtight container until removed from the child care center.
25. Water supply standards:
 - a. The child care center shall have a drinking supply from an approved community water system or from a source tested and approved by the state department of health.
 - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups.
 - c. The child care center must have hot and cold running water. Hot water heaters must be turned down or there must be a tempering

valve or antiscalding device on the faucets used by children so that the temperature of hot water supplied to lavatories and bathing facilities does not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].

26. Toilet and lavatory facilities:

- a. Toilet and lavatory facilities must be provided and must be convenient to the areas used by the children and staff.
- b. Toilet and lavatory facilities must meet requirements of the state department of health.
- c. Toilets must be located in rooms separated from those used for cooking, eating, and sleeping. A minimum of one lavatory and one flush toilet must be provided for each fifteen children, excluding those children who are not toilet trained.
- d. Separate restrooms must be provided for boys and girls six years of age and over, and partitions must be installed to separate toilets in these restrooms.
- e. Child-sized toilet adapters, training chairs, or potty chairs must be provided for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
- f. At least one handwashing lavatory must be provided per toilet room facility. Sanitary hand-drying equipment or paper towels must be provided near handwashing lavatories.
- g. Safe step stools must be provided to allow standard-size toilets and lavatories to be used by the children or child-size toilets and lavatories must be provided.

27. Sewage and wastewater disposal:

- a. A child care center shall meet the requirements of the state plumbing code as contained in North Dakota Administrative Code article 62-03.
- b. Any child care center not on a municipal or public water supply or wastewater disposal system approved by the state department of health.

28. Laundry:

- a. If the child care center provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation.
- b. Soiled linens must be placed in closed containers or hampers during storage and transportation.
- c. In all new or extensively remodeled child care centers, the handling, sorting, or washing of soiled linen or blankets must take place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas.
- d. In existing child care centers where physical separation of laundry and kitchen areas is impractical, procedures must be developed that prohibit the washing or transportation of laundry while meals are being prepared or served.
- e. Sorting of laundry may not be allowed in food preparation, serving, or kitchen areas.
- f. If the child care center provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the water temperature must be greater than one hundred seventy degrees Fahrenheit [77.2 degrees Celsius].
9. If the water temperature is less than one hundred seventy degrees Fahrenheit [77.2 degrees Celsius], then bleach must be used in the laundry process during the rinse cycle to achieve fifty parts per million of available hypochlorite at a temperature of at least seventy-five degrees Fahrenheit [24 degrees Celsius].

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-02.2, 50-11.1-04

75-03-10-19. Minimum requirements regarding space and lighting.

1. Each child care center shall provide adequate space for all children in attendance.
2. The child care center shall provide adequate space, indoors and out, for the daily activities of the children. This must include a minimum of thirty-five square feet [3.25 square meters] of space per child indoors and a minimum of seventy-five square feet [6.97 square meters] of play space per child outdoors. Indoor space considered must exclude bathrooms, pantries, passageways leading to outdoor exits, and space

children are not permitted to occupy. If available outdoor play space does not accommodate the licensed capacity of the child care center at one time, the child care center operator shall prepare a written schedule of outdoor playtime which limits use of the play area to its capacity, giving every child an opportunity to play outdoors.

3. The child care center must be properly lighted. The following technical requirements must be met:
 - a. Sixty-five foot-candles of light for all general use and play areas;
 - b. Twenty-five foot-candles of light for all bathrooms;
 - c. Fifty foot-candles of light for any kitchen, laundry, and office facilities; and
 - d. Fifteen foot-candles of light for corridors and storage areas.
 - e. If the lighting of the child care center appears questionable, the department may require the operator to obtain additional lights so that a minimum of sixty-five foot-candles of light is used in the areas generally used for children's activities.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-20. Program requirements.

1. The child care center operator shall have a program of daily individual or small group activities appropriate to the ages and needs of the children in the child care center. The program must include activities which foster sound social, intellectual, emotional, and physical growth, developed with discussion and consultation with parents as to their children's needs.
2. The program must be flexible and subject to modification for individual child differences.
3. The program must be written and varied in order to promote the physical and emotional well-being of the children, to encourage the acquisition of information and knowledge, and to foster the development of language skills, concepts, self-discipline, and problem-solving activities. The program must describe how the activities planned meet the children's developmental needs, including the special needs of children in the child care center who are multilingual or disabled. The written program must be made available to parents.

4. The program must include firsthand experiences for children to learn about the world in which they live. Opportunities must be provided for older children to participate in supervised visits and recreational activities in the community.
5. Learning experiences must be conducted in consultation with parents in order to ensure harmony with the lifestyle and cultural background of the children.
6. The program must provide a balance of quiet and active indoor and outdoor group and individual activities. A time for supervised child-initiated and self-selected activity must be established.
7. If children are allowed to assist in any food preparation, the activity must be limited to use of equipment and appliances that do not present a safety hazard. Children may not be allowed in the kitchen or laundry area unsupervised.
8. A variety of games, toys, books, crafts, and other activities and materials must be provided to enhance the child's intellectual and social development and to broaden the child's life experience. Each child care center shall have enough play materials and equipment so, that at any one time, each child in attendance may be individually involved.
9. The cultural diversity of the children must be reflected in the program through incorporation of their language, food, celebration, and lifestyles, if appropriate.
10. Equipment and furniture must be durable and safe and must be appropriately adapted for children's use.
11. Sufficient space accessible to children must be provided for each child's personal belongings.
12. The child care center shall supplement, augment, and reinforce the child's activities at home, and where applicable, at school.
13. At the time of enrollment, the child care center staff shall discuss with the parents the children's habits, activities, and schedules while at home and in school and their parents' special concerns about their past and future behavior and development. The schedule and activities must be designed to complement and supplement the children's experiences at home and in school.
14. Staff shall encourage parents to visit the facility, observe, and participate in the care of their children.

15. The child care center supervisor shall contact parents to exchange information concerning the child and the child care program as well as to offer meaningful opportunities to participate in general program policymaking.
16. Personal hygiene practices appropriate for a child's age and development must be stressed.
17. The child care supervisor shall contact parents to exchange information concerning the child and any concerns about the health, development, or behavior of the child. These concerns must be communicated to the parent promptly and directly.
18. Each child's cultural and ethnic background and primary language or dialect must be respected by the caregivers.
19. Each child care center shall have a designated area where a child can sit quietly or lie down to rest. There must be sufficient cots or sleeping mats so that each child in attendance may have an individual napping space. The floor may be used only when carpeted or padded, warm, and free from drafts, and when individual blankets or coverings are used. Napping schedules must be set for children according to their ages and needs. For children unable to sleep, time and space for quiet play must be available.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-21. Minimum standards for food and nutrition.

1. When the operator is responsible for providing food to children, the food supplied must meet United States department of agriculture standards and must be properly prepared, sufficient in amount, varied according to diets of the children enrolled, and served at appropriate hours. Food that is prepared, served, or stored in a child care center must be treated in a sanitary and safe manner with sanitary and safe equipment.
2. When parents bring sack lunches for their children, the operator may supplement lunches to provide nutritious and sufficient amounts of food for children, and shall provide adequate and appropriate refrigeration and storage as required.
3. If the services are available free of charge, a dietitian or other food service professional must be used as a consultant.

4. Children must be served a nutritious morning and afternoon snack and, if the parent does not provide a sack lunch, a nourishing meal.
 - a. Children in care for more than three hours shall receive either a snack or meal, whichever is appropriate to that time of the day.
 - b. Children in care during any normal mealtime hour must be served food appropriate to that time of the day.
 - c. Children in care in after-school child care center programs who have not had any food since lunch must be provided with a snack.
5. When the operator is responsible for providing food to children, menus must be prepared on a weekly basis and made available to the parents, the department, or other appropriate individuals.
6. Information provided by the children's parents as to their eating habits, food preferences, or special needs must be considered in the feeding schedules and in the tailoring of menus.
7. Children must be served in a manner commensurate with their age, using appropriate foods, portions, dishes, and eating utensils.
8. Children may be encouraged to eat the food served, but may not be subjected to coercion or force-feeding.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-07

75-03-10-22. Records.

1. The child care center shall maintain the following records:
 - a. The child's full name, birth date, and current home address;
 - b. Names of the child's parents or legal guardian, and the business and home telephone numbers where those individuals may be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individual legally responsible for the child may not be reached immediately in an emergency;
 - d. A written statement from the parents or legal guardian authorizing emergency medical care;

- e. Names and telephone numbers of individuals authorized to take the child from the child care center;
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the state department of health, unless the child is a drop-in or school aged; and
 - g. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child, that must indicate any special precautions for diet, medication, or activity, must serve as evidence that a child is physically able to take part in the child care program, and must be completed annually.
2. All records maintained with respect to children receiving child care services must be kept confidential, and access must be limited to staff members, the parents, or legal guardian of each child, and to:
- a. Authorized county agency and department representatives;
 - b. Individuals having a definite interest in the well-being of the children concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess a written authorization from the child's parent or legal guardian. The child care center shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07

75-03-10-23. Discipline - Punishment prohibited. Disregard of any of the following disciplinary rules is grounds for license denial or revocation:

- 1. The child care center must have a written policy regarding the discipline of children that must be interpreted to staff members before the child care center begins operation or before staff members begin working with children.
- 2. Discipline must be constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praise for appropriate behavior, and gentle physical restraint, such as holding. Children may not be subjected to physical harm, fear, or humiliation.

3. Authority to discipline may not be delegated to or be accomplished by children.
4. Separation, when used as discipline, must be brief and appropriate to the child's age and circumstances. Any child must be in a safe, lighted, well-ventilated room within hearing of an adult. A child may not be isolated in a locked room or closet.
5. A child may not be physically punished for lapses in toilet training.
6. When addressing a child, or while in the presence of a child, staff members may not make derogatory remarks about the child, the child's family, race, or religion, nor use profane, threatening, unduly loud, or otherwise abusive language.
7. A child may not be force-fed, unless medically prescribed and administered under a physician's care.
8. Deprivation of meals may not be used as a form of discipline or punishment.
9. A child may not be punched, spanked, shaken, pinched, bitten, roughly handled, or struck by any staff member or any other adult in the child care center.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

75-03-10-24. Specialized types of care and minimum requirements therefor.

1. **Infant care.**
 - a. A child care center serving children from birth to twenty-four months shall provide an environment which protects the children from physical harm and is not so restricted so as to inhibit physical, intellectual, emotional, and social development.
 - b. Nonwalking children shall have the opportunity during each day for freedom of movement, including creeping or crawling in a safe, clean, open, uncluttered area.
 - c. Each infant shall have an individual sleeping space. The sheets must be changed whenever they become soiled or wet. If individual protective coverings are used for each child to protect linens, the protective coverings must be laundered at least weekly.

- d. Any child under twelve months of age or unable to walk unassisted must be provided sleeping space in a crib with a firm mattress or a playpen with adequate padding.
- e. Children must be taken outdoors or to other areas within the child care center for a part of each day to provide some change of physical surroundings and to be with other children. A child may not be confined to a crib or playpen during the entire time at the child care center, unless the child is preparing to sleep or sleeping for the duration of the care.
- f. Each infant shall have periodic individual personal contact and attention from an adult, such as being held, rocked, talked to, or sung to.
- g. Low chairs and tables or infant seats with trays must be provided for table play and mealtime for children no longer being held for feeding. Highchairs, if used, must have a wide base and a safety strap.
- h. Children may not be shaken or jostled.
- i. All cries of infants must be investigated.
- j. Infants must be fed or supervised individually and the diet and pattern of feeding must be appropriate to the individual developmental needs and parent's wishes.
- k. Infants must be provided age-appropriate nutritious foods. Only breast milk or iron-fortified artificial milk, meeting the requirements of the Infant Formula Act of 1980 [Pub. L. 96-359; 94 Stat. 1190; 21 U.S.C. 301 note et seq.], may be fed to infants less than six months of age, unless otherwise instructed by the infant's parent.
- l. Infants must be fed only the specific brand of artificial baby milk requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions, based upon directions of a child's physician, are provided.
- m. Mixed formula, in single bottles or batches, that has been unrefrigerated more than one hour, must be discarded.
- n. Frozen breast milk must be thawed under cool running tap water, in amounts needed. Unused, thawed breast milk must be discarded at the end of each day.

- o. Staff members shall hold infants when bottle-feeding breast milk, artificial baby milk, soy or cow's milk based ready-to-feed, concentrate, powdered prepared formulas or cow or goat milk.
- p. Infants, determined by the parent to be developmentally ready for foods other than breast milk or artificial baby milk, shall have those other foods offered from a spoon only.
- q. Staff members may not leave an infant unattended during the infant's feeding or eating process.
- r. There must be a minimum space of two feet [58.42 centimeters] between each crib or cot. Aisles between cots and cribs must be kept free of all obstructions while they are occupied.

2. **Night care.**

- a. Any child care center offering night care shall provide program modifications for the special needs of children and their parents during the night.
- b. In consultation with parents, special attention must be given by the caregiver to provide a transition into this type of care appropriate to the child's emotional needs.
- c. When practical, children must be left for care and picked up before and after their normal sleeping period to ensure minimal disturbance of the child during sleep, but consideration must be given to the parent's work schedule.
- d. Preschool age children must be supervised when bathing.
- e. Comfortable beds, cots, or cribs, complete with a mattress or pad, must be available.
 - (1) Pillows and mattresses must have clean coverings.
 - (2) Sheets and pillowcases must be changed as often as necessary for cleanliness and hygiene, at least weekly. If beds are used by different children, sheets and pillowcases must be laundered before use by other children.
 - (3) Each bed or cot must have sufficient blankets available.
- f. The child care center operator shall require each child in night care to have night clothing and a toothbrush marked for identification.

9. For child care centers, during sleeping hours, the staff must be awake and within listening distance in order to provide for the needs of children and respond to an emergency.

3. Drop-in child care centers.

- a. If a child care center serves drop-in children, schoolchildren, or before-school and after-school children, the child care center must be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the program.
- b. The program must reflect the special needs of the children who are provided drop-in service.
- c. Admission records must comply with all enrollment requirements contained in section 75-03-10-22, except the immunization record requirement.
- d. Admittance procedures must provide for a period of individual attention for the child in order to acquaint the child with the child care center, its equipment, and the staff.
- e. A child care center may not receive drop-in or part-time children who, when added to the children in regular attendance, cause the child care center to exceed the total number of children for which the child care center is licensed.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-25. Minimum requirements for care of children with special needs. When children with special needs are admitted to a child care center, there must be appropriate provisions to meet those needs. The child care center shall document how the child's special needs may be met.

1. When children with special needs are admitted, the child care center supervisor shall consult with the child's parents, and, with the parent's permission, the child's source of professional health care, or, when appropriate, other health and professional consultants.
2. Caregivers shall receive proper instructions as to the nature of the child's disability and potential for growth and development.
3. If the nature of the special needs or the number of children with special needs warrants added care, the child care center shall add sufficient

staff and equipment as deemed necessary by the department to compensate for these needs.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-26. Minimum provisions regarding emergency care for children. The child care center shall have plans to respond to illness and emergencies including burns, serious injury, and ingestion of poison. Parents of enrollees must be advised of these plans. Plans must provide that:

1. Emergency response procedures be conspicuously posted;
2. Training concerning emergency procedures be available for all staff members to ensure awareness of the hazards of infection and accidents and how such problems may be minimized;
3. At least one state department of health-approved first-aid kit be maintained and kept in a designated location, inaccessible to children, yet readily accessible to staff members;
4. The child care center have a working telephone line immediately accessible to staff with a list of emergency telephone numbers conspicuously posted adjacent to the telephone;
5. Medical consultation be available regarding special care and medication when health policies of the facility allow ill children to be admitted or to remain in the child care center;
6. Written permission to dispense medication be obtained from the parent if a child in the child care center requires medication, as well as proper instructions for the administration of medication:
 - a. Medications prescribed by a physician must be accompanied by the doctor's written instructions as to dosage and storage, and labeled with the child's name and dated;
 - b. Medications must be stored in an area inaccessible to children, and medications stored in a refrigerator must be stored collectively in a spillproof container;
 - c. A written record of the administration of medication, including over-the-counter medication, to each child must be kept, and records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child; and

- d. Completed medication records must be included in the child's record;
- 7. A supervised temporary isolation area be provided for a child who is too ill to remain in the group or who has an infectious or contagious disease, with the following procedures being followed when those signs or symptoms are observed:
 - a. Parents are notified immediately and asked to pick up their child; and
 - b. First aid is provided and medical care is sought as necessary;
- 8. Children with infectious or communicable conditions be excluded from the child care center until the condition may no longer be transmitted, and guidance regarding exclusion and return to the child care center is obtained through consultation with local and state health department authorities;
- 9. Adequate supervision be available for all children who are ill and remain at the center;
- 10. A source of emergency health services be readily available to the child care center, including:
 - a. A prearranged plan for emergency medical care in which parents of enrollees are advised of the arrangement; and
 - b. Provisions for emergency transportation, specifically that when a child is to be brought to another place for emergency care, the child is to be accompanied by an adult who will remain with the child until medical personnel assume responsibility for the child's care and until the parent or legal guardian arrives;
- 11. Information be provided to parents, as needed, concerning child health and social services available in the community, and that assistance be available for parents to obtain these services;
- 12. The child care center inform parents in writing of any first aid administered to their child within twenty-four hours of the incident, and immediately notify parents of any injury which requires emergency care beyond first aid; and

13. Each injury report be made a part of the child's record.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-27. Effect of conviction on licensure and employment.

1. A child care center operator may not be, and a child care center may not employ, in any capacity that involves or permits contact between the employee and any child cared for by the child care center, an individual who has been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-17, assaults - threats - coercion; or 12.1-18, kidnapping; North Dakota Century Code sections 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code sections 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or
 - b. An offense other than an offense identified in subdivision a, if the department in the case of a child care center operator, or the child care operator in the case of a child care center employee, determines that the individual has not been sufficiently rehabilitated.
2. A child care center shall establish written policies, and engage in practices that conform to those policies, to effectively implement this section.
3. For the purposes of subdivision b of subsection 1, the department in the case of a child care center operator, or the child care center operator in the case of a child care center employee, shall treat completion of a period of five years after final discharge from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, as prima facie evidence of sufficient rehabilitation.

4. The department has determined that the offenses enumerated in subdivision a of subsection 1 have a direct bearing upon an individual's ability to serve the public in a capacity involving the provision of child care services.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-28. Child abuse and neglect determinations. If a probable cause determination or a decision that services are required under North Dakota Century Code chapter 50-25.1 exists, indicating that any child has been abused or neglected by a staff member, that individual shall furnish information satisfactory to the department, from which the department may determine the staff member's current ability to provide care free of abuse and neglect. The determination of current ability must be furnished to the child care center operator and to the regional director of the human service center or the regional director's designee for consideration and action on the center child care license.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-29. Allowable time periods for correction of deficiencies.

1. Deficiencies noted in a correction order must be corrected:
 - a. For a violation of section 75-03-10-09, subsection 3 of section 75-03-10-18, and section 75-03-10-23, within twenty-four hours;
 - b. For a violation or deficiency requiring the hiring of a child care supervisor with those qualifications set forth in section 75-03-10-10, or a child care center director with those qualifications set forth in section 75-03-10-11.1, within sixty days;
 - c. For a deficiency that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-10-17, within sixty days;
 - d. For a deficiency that requires substantial building remodeling, construction, or change, within sixty days; and
 - e. For all other deficiencies, within twenty days.

2. All periods for correction begin on the date of receipt of the correction order by the licensee.
3. The regional supervisor of early childhood program licensing may grant an extension of additional time to correct deficiencies, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the licensee and a showing that the need for the extension is created by unforeseeable circumstances and the licensee has diligently pursued the correction of the deficiency.
4. The operator shall furnish a written notice of completion of the correction order action to the county agency. The correction order is effective until the county receives the notice.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-30. Fiscal sanctions.

1. A fiscal sanction of twenty-five dollars per day must be assessed for each violation of subdivision i of subsection 2 of section 75-03-10-08; subsection 2 of section 75-03-10-09; section 75-03-10-17; subsections 6, 9, and 13 of section 75-03-10-18; subsection 2 of section 75-03-10-19; section 75-03-10-23; and section 75-03-10-28, for each day after the allowable time for correction of deficiencies ends, that the child care center has not verified correction.
2. A fiscal sanction of fifteen dollars per day must be assessed for each violation of section 75-03-10-11.1; section 75-03-10-15; subsections 2, 3, 4, 7, 8, 11, 19, and subdivision f of subsection 26 of section 75-03-10-18; subsection 1 of section 75-03-10-19; subsections 3, 8, and 19 of section 75-03-10-20; and subdivision a of subsection 1 of subsection 3 of section 75-03-10-24, for each day after the allowable time for correction of deficiencies ends, that the child care center has not verified correction.
3. A fiscal sanction of five dollars per day must be assessed for each violation of any other provision of this chapter, for each day after the allowable time for correction of deficiencies ends, that the child care center has not verified correction.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04

75-03-10-31. Appeals. An applicant or provider may appeal a decision to deny or revoke a license by filing a written appeal with the department within ten days of receipt of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-07.2

75-03-10-32. Penalties. Repealed effective January 1, 1999.